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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,010	12/04/2000	Thomas R. Jenkins	15916-277	6595

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12/23/2008

EXAMINER

NGUYEN, CAMTU TRAN

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

12/23/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/730,010

**Applicant(s)**

JENKINS ET AL.

**Examiner**

Camtu T. Nguyen

**Art Unit**

3772

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-17, 21-23, 25-30, 38, 39, 45 and 46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-17, 21-23, 25-30, 38, 39, 45 and 46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notices of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment & Arguments***

This Office Action is responding to applicant's amendment filed on 9-29-2008. Claims 14, 17, 21-23, 25, and 26 have been amended.

Applicant remarks against that the Swanson et al rejection applied in the 102(a) in the previous Office Action are acknowledged, thus, such rejection are withdrawn.

The Swanson et al reference applied in the 103(a) rejection are also withdrawn, at least for the reason the Swanson et al rejection 102(a) was withdrawn.

The claims, as amended, have been carefully considered but deemed not allowable in view of the following grounds of rejection(s).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "a distal region and a distal end" recited in line 4 appears indefinite & confusing. Did applicant intend for these distal region & distal end to refer to the elongate body? At the very least, its (proposed elongated body) distal end would differentiate from the outer member's distal end (currently claim 14 recites two distal ends, line 2 & line 4).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14, 15-17, 21-23, 25-30, 38, 39, 45, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang et al (U.S. Patent No. 6,332,880) in view of Swanson et al (U.S. Patent No. 6,076,012).

Yang et al discloses in Figure 40 a probe comprising an outer member/sheath (258), an elongate sleeve/body (256), the elongate sleeve/body (256) carried within the outer member/sheath (258), the distal end of the outer member/sheath (258) connected to the distal end of the elongate body (256). Figures 40 & 41 illustrate the elongate sleeve/body (256) comprising spline leg (254) located proximal of the elongate sleeve/body's (256) distal end.

The Yang et al reference does not disclose an inflatable tissue coagulation body.

Swanson discloses in Figure 84 illustrates the elongate body including an internal fluid lumen and an inflatable tissue coagulation body (430).

Therefore, it would have been obvious to one skilled in the art to modify the Yang et al's probe such that it would include the inflatable tissue coagulation body (430), taught by Swanson et al, on the Yang et al's elongate sleeve/body (256) for purposes of making long continuous lesions patterns.

With regards to claims 16 & 26, the Swanson et al discloses in Figure 3A at least two temperature sensing elements (540). Therefore, one skilled in the art would have been motivated

to modify the Yang et al's probe such that it would include a sensor for purposes of sensing. With regards specifically to the limitations recited in the wherein statement in claims 16 & 26, particularly required the "sensing element" electrode on one side of the hinge portion and the "coagulation electrode" on the other side, it would have been clearly and obvious to one having ordinary skill in the art at the time the invention was made to have the "sensing electrode" on a different side of the hinge portion from the "coagulation electrode", since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

With regards to claim 17 reciting the half-balloon, Figure 84 in the Swanson et al reference illustrates whole inflatable structure (430), of which comprises the "half-balloon" structure, thus, deemed to have the claimed "half-balloon" tissue coagulation structure.

With regards to claim 21 reciting the loop & the apex, Figure 40 in the Yang et al reference illustrates the elongate sleeve/body (256) forms a loop and such loop having flexibility to bend & form an apex.

With regards to claim 22 reciting a control element, Figure 1 of the Yang et al reference illustrates as steering mechanism (68).

With regards to claim 23, the loop in Figure 40 defines the flexibility of the spline leg (254), the loop of Figure 40 further illustrates the loop length is at least two times the loop height.

With regards to claim 25, the Yang reference discloses a flexible spline (254) that bends, thus, a hinge formed in the flexible spline (254) is inherent.

With regards to claim 30, Figure 40 in the Yang et al discloses electrodes (28).

With regards to claim 45 & 46, clearly it is obvious the spline leg (254) of Yang et al, particularly at the bending/hinge portion of the spline leg (254) to have greater flexibility that its immediate proximal and/or distal portion thereof.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-4799. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Camtu T. Nguyen/  
Examiner, Art Unit 3772

/Patricia Bianco/  
Supervisory Patent Examiner, Art Unit 3772

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